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# UNDERSTANDING LABOR RELATIONS OBLIGATIONS FOR MANAGERS AND SUPERVISORS

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CPMS



# Introduction

- Who we are
- Where we work
- What we do
- Why you are here
  - National Defense Authorization Act Training Requirement

# Expectations

- *Learning objectives*
  - Identify the legal basis for labor relations
  - Identify and explain the Federal labor relations administrative bodies
  - Understand the role of CPMS
  - Identify and understand management rights
  - Identify and understand employee rights
  - Identify and understand union rights
  - Identify and explain change situations

# Expectations

- *Learning objectives*
  - Understand and explain the duty to bargain
  - Understand and explain the scope of bargaining
  - Understand the concept of Pre-decisional Involvement
  - Understand and discuss contract administration

# Agenda

- *Unit I*
  - The Federal Labor-Management Relations Statute
  - The Federal Labor Relations Authority
  - The Rights of the Parties Under the Statute
- *Unit II*
  - Collective Bargaining Under the Statute
  - Practical Examples and Discussion
  - Closing Thoughts

# The Statute

- Brief History of Federal Sector Labor Relations
  - 1962-1978: The Era of Executive Orders
  - 1978: Civil Service Reform II
    - *Reorganization Plan No. 2*
    - *The Civil Service Reform Act*
    - *Most Comprehensive Reform since Pendleton Act of 1883*
  - 1993: Clinton-Era and E.O. 12871
  - 2001: Bush-Era and E.O. 13203
  - Today: A New Era of Labor Relations – President Obama's E.O. 13522

# The Statute

- Title 5, U.S. Code, Chapter 71
  - “The Statute”
- Purposes of the Statute
  - “Congress finds...”
    - *Labor organizations and collective bargaining are in the public interest*
  - Protects the right of employees
    - *To organize*
    - *To bargain collectively*
    - *Participate through labor organizations of their choosing*

# The Administrative Organizations

- The Federal Labor Relations Authority (FLRA)
- The Office of General Counsel - FLRA
- Federal Services Impasses Panel (FSIP)
- Federal Mediation and Conciliation Service (FMCS)\*
  - Integral agency in Federal sector LR
  - Not a component of the Authority
- The Federal Courts



# The Authority

- Appointed by the President
- Review Decisions of Administrative Law Judges
  - Unfair Labor Practices (ULP)
  - Exceptions (appeals) filed
- Decide Appeals from Regional Director Decisions
  - Representation Cases
- Rule on Exceptions to Arbitration Awards
- Resolve Negotiability Disputes

# The Office of General Counsel

- Appointed by the President
- Seven Regional Offices
- Mission:
  - Investigate ULP charges and Representation Petitions
  - Prosecute ULP complaints
  - Conduct Elections
  - Provide Statutory Training

# The Federal Services Impasses Panel

- Resolves bargaining impasses
  - Agency and union
  - Voluntary efforts fail to resolve impasse
    - Involvement of FMCS\*
- Jurisdiction

# The Federal Mediation and Conciliation Service

- Pre-dates the Civil Service Reform Act
- Not part of the Authority
- Voluntary involvement in bargaining impasses
  - Parties may incorporate mandatory involvement through collective bargaining
- Provides training
- No cost option

# The Rights of the Parties

- Employees: §7102
- Management: §7106
- Union: §7114

## Employee Rights: 5 USC §7102

- Form, join, assist freely without fear of penalty or reprisal
- Not form, join, or assist without fear of penalty or reprisal
- Act on behalf of a union as a representative
- Engage in collective bargaining
  - Conditions of employment
  - Organization selected by employees

# Management Rights: 5 USC §7106

- Core Rights\*
  - Determine
    - *Mission, budget, organization, number of employees, internal security practices*
- Operational Rights\*
  - In accordance with applicable law
    - *Hire, assign, direct, layoff, retain employees in agency; or,*
    - *Suspend, remove, reduce in grade/pay, take disciplinary action*
    - *Assign work, make determination regarding contracting out, determine personnel for agency operations*
    - *Make selections to fill positions from certificates or other appropriate source*
    - *Take action to carry out agency mission during emergencies*
- Core and Operational Rights Affected by Law
  - Three exceptions
    - *Permissive subjects “at the election of the agency...”*
    - *Procedures followed in carrying out core, operational, permissive topics*
    - *Appropriate arrangements for employees adversely affected*

## Union Rights: 5 USC §7114

- Act for and negotiate on behalf of all employees in the unit
- Opportunity to be represented at meetings
  - Formal discussions
  - Examinations of employees
- Recognized as the “exclusive representative”



# Meetings

- Key Elements
  - Formality
  - Subject Matter
- Formal discussions
  - Advance notice
  - Reasonable opportunity to attend
- Examinations - *Weingarten*
  - Must satisfy three tests
    - *Investigation*
    - *Reasonable believe of discipline*
    - *Employee asks for a representative*

# End of Unit I

- **Questions?**
  - **The Statute**
  - **The Authority**
  - **The Rights of the Parties**